

ASSEMBLY BILL

No. 158

Introduced by Assembly Member Mendoza

January 27, 2009

An act to amend Section 21628 of the Business and Professions Code, relating to secondhand goods.

LEGISLATIVE COUNSEL'S DIGEST

AB 158, as introduced, Mendoza. Secondhand dealers and coin dealers.

Existing law requires secondhand dealers and coin dealers, as defined, to report acquisitions of tangible personal property on a daily basis to local law enforcement authorities, as specified. Existing law requires that report to include the identification of the intended seller or pledger of the property and requires that the person taking the information verify that identification. Existing law provides that this verification is valid if the person taking the information reasonably relies on a specified document that is currently valid or has been issued within 5 years and contains a photograph or description, or both, of the person named on it, is signed by the person, and bears a serial or other identifying number.

This bill would remove the signature and serial or identifying number requirements for a document to be reasonably relied upon for verification and would instead provide that a signature or a serial or identifying number are only required for those documents where applicable.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 21628 of the Business and Professions Code is amended to read:

21628. Every secondhand dealer or coin dealer described in Section 21626 shall report daily, or on the first working day after receipt or purchase of the property, on forms either approved or provided at actual cost by the Department of Justice, all tangible personal property ~~which~~ *that* he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning, to the chief of police or to the sheriff, in accordance with the provisions of Sections 21630 and 21633 and subdivision (j) of this section. The report shall be legible, prepared in English, completed where applicable, and include, but not be limited to, the following information:

(a) The name and current address of the intended seller or pledger of the property.

(b) The identification of the intended seller or pledger. The identification of the seller or pledger of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, provided that the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, *and, where applicable*, is signed by the person; and bears a serial or other identifying number:

- (1) A passport of the United States.
- (2) A driver's license issued by any state, or Canada.
- (3) An identification card issued by any state.
- (4) An identification card issued by the United States.
- (5) A passport from any other country in addition to another item of identification bearing an address.

(c) A complete and reasonably accurate description of serialized property, including, but not limited to, the following: serial number and other identifying marks or symbols, owner-applied numbers, manufacturer's named brand, and model name or number. Watches need not be disassembled when special skill or special tools are required to obtain the required information, unless specifically requested to do so by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument and

1 disassembling a watch with a penknife, caseknife, or similar
2 instrument does not constitute a special skill. In all instances where
3 the required information may be obtained by removal of a
4 watchband, then the watchband shall be removed. The cost
5 associated with opening the watch shall be borne by the
6 pawnbroker, secondhand dealer, or customer.

7 (d) A complete and reasonably accurate description of
8 nonserialized property, including, but not limited to, the following:
9 size, color, material, manufacturer's pattern name (when known),
10 owner-applied numbers and personalized inscriptions and other
11 identifying marks or symbols. Watches need not be disassembled
12 when special skill or special tools are required to obtain the
13 required information, unless specifically requested to do so by a
14 peace officer. A special tool does not include a penknife, caseknife,
15 or similar instrument and disassembling a watch with a penknife,
16 caseknife, or similar instrument does not constitute a special skill.
17 In all instances where the required information may be obtained
18 by removal of a watchband, then the watchband shall be removed.
19 The cost associated with opening the watch shall be borne by the
20 pawnbroker, secondhand dealer, or customer.

21 (e) A certification by the intended seller or pledger that he or
22 she is the owner of the property or has the authority of the owner
23 to sell or pledge the property.

24 (f) A certification by the intended seller or pledger that to his
25 or her knowledge and belief the information is true and complete.

26 (g) A legible fingerprint taken from the intended seller or
27 pledger, as prescribed by the Department of Justice. This
28 requirement does not apply to a coin dealer, unless required
29 pursuant to local regulation.

30 (h) When a secondhand dealer complies with all of the
31 provisions of this section, he or she shall be deemed to have
32 received from the seller or pledger adequate evidence of authority
33 to sell or pledge the property for all purposes included in this
34 article, and Division 8 (commencing with Section 21000) of the
35 Financial Code.

36 In enacting this subdivision, it is the intent of the Legislature
37 that its provisions shall not adversely affect the implementation
38 of, or prosecution under, any provision of the Penal Code.

39 (i) Any person who conducts business as a secondhand dealer
40 at any gun show or event, as defined in Section 478.100 of Title

1 27 of the Code of Federal Regulations, or its successor, outside
2 the jurisdiction that issued the secondhand dealer license in
3 accordance with subdivision (d) of Section 21641, may be required
4 to submit a duplicate of the transaction report prepared pursuant
5 to this section to the local law enforcement agency where the gun
6 show or event is conducted.

7 (j) (1) The Department of Justice shall, in consultation with
8 appropriate local law enforcement agencies, develop clear and
9 comprehensive descriptive categories denoting tangible personal
10 property subject to the reporting requirements of this section. These
11 categories shall be incorporated by secondhand dealers and coin
12 dealers described in Section 21626 for purposes of the reporting
13 requirements set forth herein. Any required report shall be
14 transmitted by electronic means. The Department of Justice and
15 local law enforcement agencies, in consultation with representatives
16 from the secondhand dealer and coin dealer businesses, shall
17 develop a standard format to be used statewide to transmit this
18 report electronically.

19 (2) Twelve months after the format and the categories described
20 in paragraph (1) have been developed, each secondhand dealer
21 and coin dealer shall electronically report using this format the
22 information required by this section under these reporting
23 categories. Until that time, each secondhand dealer and coin dealer
24 may either continue to report this information using existing forms
25 and procedures or may begin electronically reporting this
26 information under the reporting categories and using the format
27 described in paragraph (1) as soon as each has been developed.

28 (3) A coin dealer who engages in less than 10 transactions each
29 week in which he or she has purchased, taken in trade, taken in
30 pawn, accepted for sale or consignment, or accepted for auctioning
31 tangible personal property, shall report the information required
32 by this section under the reporting categories described in
33 paragraph (1) on a form developed by the Attorney General that
34 the coin dealer shall transmit each day by facsimile transmission
35 or by mail to the chief of police or sheriff. A transaction shall
36 consist of not more than one item. Nothing in this section shall
37 prohibit up to 10 transactions with the same customer per week,
38 provided that the cumulative total per week for all customers does
39 not exceed 10 transactions. Until that form is developed, these
40 coin dealers shall continue to report information required by this

1 section using existing forms and procedures. If these transactions
2 increase to 10 per week, the coin dealer shall electronically report
3 using the format described in paragraph (1) the information
4 required by this section beginning six months after his or her
5 transactions exceed 10 per week or 12 months after the format
6 described in paragraph (1) has been developed, whichever occurs
7 later.

8 (4) For purposes of this subdivision, “item” shall mean any
9 single physical article. However, with respect to a commonly
10 accepted grouping of articles that are purchased as a set, including,
11 but not limited to, a pair of earrings or place settings of china,
12 silverware, or other tableware, “item” shall mean that commonly
13 accepted grouping.

14 (5) Nothing in this subdivision shall be construed as excepting
15 a secondhand dealer from the fingerprinting requirement of
16 subdivision (g).